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EXAMINER

ARNOLD III, TROY G

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 05/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/576,499Applicant(s)
WilliamsExaminer
Troy ArnoldArt Unit
3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 11, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-14, 16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan et al. Regarding claim 11, Sullivan teaches a packaging component comprising a base member 10 with a central part, opposed sides, with portions foldable out to form arms, a member 18 engagable with the arms to hold them in a folded condition, whereby an article to be packaged is stabilized. Regarding claim 12, item 19 is a portion foldable out of the plane of the base member which forms legs. The limitations of claims 13 and 14 are fully met by Sullivan; see Figs 3 and 4. Regarding claim 16, Sullivan teaches side and end leg portions with lapping portions at each corner which fold over and underlie adjacent portions. See Fig 3. The limitations of claim 19 are fully met by Sullivan; see Fig 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan in view of Wood, Cadillac et al and Official Notice. Sullivan teaches all the limitations of claims 1 and 2 except a stand-off element. (Note that the intended use phrase in the preambles “for a vehicular radiator” has been given no weight in accordance with Kropa v. Robie. Sullivan’s packaging system could clearly be used to package a vehicular radiator.) Wood teaches stand-off elements 17 in a packaging system. Cadillac teaches stand-off elements 11,12 in a packaging system. Official Notice is also taken that stand-off elements or spacers are old, obvious and well known structures in the packaging arts. It would have been obvious in view of either Wood, Cadillac or Official Notice to one of ordinary skill in the art at the time the invention was made to provide stand-off elements in the packaging structure of Sullivan for the purpose of better retaining the item packaged. Sullivan teaches all the limitations of claim 3 except the tray member being made of Kraft paper per se. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper for any of its desirable qualities; Kraft paper is the full functional equivalent of the cardboard specified by Sullivan. The limitations of claims 4, 6 and 9 are fully met by Sullivan. Sullivan teaches all the limitations of claims 5 and 7 except a diagonal fold line forming a gusset, and pre-cut locking tabs and pre-cut locking receptacles, respectively. Official Notice is taken that diagonal fold lines and gussets, and pre-cut tabs and receptacles, are old, obvious and well known structures in the art of packaging, and would have been obvious

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modifications to Sullivan for any number of reasons, such as easier assembly. Sullivan's structure is the full functional equivalent of that claimed. Sullivan teaches all the limitations of claim 8 except the legs being folded towards the back rather than the front of the tray member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sullivan's tray member so that the legs folded towards the back for the purpose of better supporting an item which needed to be maintained in a "this side up" orientation. Sullivan teaches all the limitations of claim 10 except a plurality of fold lines between the cuts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate fold lines in the arms of Sullivan in order to make the folding process more even and precise. Fold lines are old and well known in the packaging arts. Sullivan teaches all the limitations of claim 24 except a stand-off element and fold lines on the arms. See arguments pertaining to claims 1 and 10 above, respectively.

Claims 15, 17, 18, 20-23 and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al, in view of Official Notice. Regarding claims 15 and 17, Sullivan teaches all the limitations of claims 15 and 17 except a diagonal fold line forming a gusset, and pre-cut locking tabs and pre-cut locking receptacles, respectively. Official Notice is taken that diagonal fold lines and gussets, and pre-cut tabs and receptacles, are old, obvious and well known structures in the art of packaging, and would have been obvious modifications to Sullivan for any number of reasons, such as easier assembly. Sullivan's structure is the full functional equivalent of that claimed.

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Regarding claim 18, Sullivan teaches all the limitations of claim 18 except the legs being folded towards the back rather than the front of the tray member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sullivan's tray member so that the legs folded towards the back for the purpose of better supporting an item which needed to be maintained in a "this side up" orientation. Regarding claim 20, Sullivan teaches all the limitations of claim 20 except a plurality of fold lines between the cuts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate fold lines in the arms of Sullivan in order to make the folding process more even and precise. Fold lines are old and well known in the packaging arts. Regarding claim 21, Sullivan teaches all the limitations of claim 21 except the tray member being made of Kraft paper per se. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper for any of its desirable qualities; Kraft paper is the full functional equivalent of the cardboard specified by Sullivan. Claim 22 is clearly met by Sullivan; see straps 18. Sullivan teaches all the limitations of claim 23 except fold lines on the arms. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate fold lines in the arms of Sullivan in order to make the folding process more even and precise, as discussed regarding claim 10 above. The limitations of claims 25, 28 and 30 are met by Sullivan.

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Regarding claim 26, Sullivan teaches all the limitations of claim 26 except a diagonal fold line forming a gusset, and pre-cut locking tabs and pre-cut locking receptacles, respectively. Official Notice is taken that diagonal fold lines and gussets, and pre-cut tabs and receptacles, are old, obvious and well known structures in the art of packaging, and would have been obvious modifications to Sullivan for any number of reasons, such as easier assembly. Sullivan's structure is the full functional equivalent of that claimed. Regarding claim 27, Sullivan teaches all the limitations of claim 27 except the legs being folded towards the back rather than the front of the tray member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sullivan's tray member so that the legs folded towards the back for the purpose of better supporting an item which needed to be maintained in a "this side up" orientation. Regarding claim 29, Sullivan teaches all the limitations of claim 29 except the tray member being made of Kraft paper per se. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper for any of its desirable qualities; Kraft paper is the full functional equivalent of the cardboard specified by Sullivan. Regarding claim 30, Sullivan teaches all the limitations of claims 30 except a stand-off element. Wood teaches stand-off elements 17 in a packaging system. Cadillac teaches stand-off elements 11,12 in a packaging system. Official Notice is also taken that stand-off elements or spacers are old, obvious and well known structures in the packaging arts. It would have been obvious in view of either Wood, Cadillac or Official Notice to one of ordinary skill in

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the art at the time the invention was made to provide stand-off elements in the packaging structure of Sullivan for the purpose of better retaining the item packaged.

Response to Arguments

Applicant's arguments filed February 11, 2002 have been fully considered but they are not persuasive. Regarding the remarks on pages 2-4, it is maintained that Sullivan teaches the distinct limitations claimed in claims 11-14, 16 and 19, as noted. Regarding the remarks on page 5, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Sullivan's packaging system to transport a radiator. His system appears ideally suited to do so. Regarding the arguments in the middle of page 7, Applicant argues distinctions not made in the claims - there is no language in claims 1 or 2 about an article being "removed from each of six sides of a container." Nor is there any claim language requiring an article to be packed so that it "is removed from the top by use of a stand off member," as claimed in the middle of page 8, and pages following. Contrary to the remarks made on pages 11-20, it is maintained that Sullivan either teaches the distinct structural limitations claimed in the claims, or it would have been obvious to modify his system so that it did, based on the supporting references cited, and the Official Notice taken.

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any specific inquiries concerning this communication or earlier communications from the Examiner may be directed to Troy Arnold at (703) 305-0621. The Examiner can normally be reached Monday through Friday 9:30am - 6pm EST. Official responses may also be faxed directly to Tech Center 3700 at (703) 872-9302, and after final responses to (703) 872-9303. Questions of a general nature may be directed to the Group Receptionist at (703) 308-1148. Tech Center 3700 Customer Service may also be reached at (703) 306-5648.

Troy Arnold

April 22, 2002



Mickey Yu
Supervisory Patent Examiner
Group 3700